

MBA National Fraud Issues Conference

Update on Mortgage Fraud Laws

San Diego | March 8, 2007



fraud protection you can bank on





The Georgia Residential Mortgage Fraud Act

O.C.G.A. § 16-8-100 et. Seq.
Effective date: May 5, 2005

16-8-101(1) “Mortgage Lending Process”

- From solicitation to funding
- From 1003 to borrower’s supporting documents and required disclosures

16-8-101(3) “Person”

- Natural person
- Corporations, companies, and LLCs
- Partnerships and trusts
- Associations
- Any other entity”

16-8-101(4) “Residential Mortgage Loan”

- Loans to a person (as defined)
- Secured by one-to-four family residential property
- Includes renewal or refinancing

16-8-102 “Mortgage fraud occurs when a person who intends to defraud:”

- Deliberately lies during the lending process
- Uses or facilitates any deliberate lie
- Receives any proceeds or funds that result from such lies
- Conspires to violate this statute
- Files, or causes to be filed, with the official registrar any document known to contain such lies

16-8-103 “Mortgage fraud cases can be brought in any county where:”

- The collateral property is located
- Any act to commit mortgage fraud was committed
- Any defendant had control or possession of loan proceeds
- The closing occurred
- Any false document was filed

Authority to investigate and prosecute

16-8-104 “Mortgage fraud may be investigated and prosecuted by:”

- Attorney General
- District Attorneys

16-8-104 “Mortgage fraud is a felony punishable by:”

- One transaction:
 - 1 to 10 years in prison and/or \$5,000 fine
- Two or more transactions:
 - 3 to 20 years in prison and/or \$100,000 fine
- Each transaction is a separate offense

16-8-105 “Forfeiture of real and personal property”

- Used or intended to be used in the course of
- Derived from
- Realized through

Attorney General

- Prevents fraud because of:
 - Heightened awareness and visibility
 - Education
- Created flexible, easy to use tool for prosecutors and police
- Created public pressure to enforce it

Police Departments

- Successful sting operations
- Makes a complicated crime easy to pursue
 - Don't have to wait for lender to realize loss
 - Can go after small cases
 - Can act quickly
 - Can initiate cases on their own
 - Reaches out of state defendants

Lenders

- Don't have to wait for loss to be realized
- Easy for police to understand
- Can go after single transaction

Concrete Results

- Close to 50 “sting” operations
 - Minimum of \$20 million stopped at closing table
- More than 200 arrests
 - Guilty pleas
 - Convictions
 - Restitution
- Perpetrators “outing” each other

- Won't deter hardened criminals
- No deterrent if punishment is not severe
- Requires industry effort
 - to train law enforcement
 - to increase public awareness



Interthinx

Ann Fulmer

VP, Industry Relations

404-626-9916

afulmer@interthinx.com